

City of _____
P.O. Box _____
_____, Alaska 99____
(907) ____ - _____

And

_____ Tribal Council
P.O. Box _____
_____, Alaska 99____

MEMORANDUM OF AGREEMENT BETWEEN

THE CITY OF _____

and

THE _____ TRIBAL COUNCIL

To transfer maintenance and operation of all City of _____ services to the _____ Tribal Council and consolidate the Tribal/City administrations into one with the Tribal providing bookkeeping and administration services currently provided by the city. This Memorandum of Agreement, hereafter known as MOA, is being executed by and between the City of _____, hereafter known as City and the _____ Tribal Council, hereafter known as _____.

1. Purpose:

The purpose of this MOA is to enable the City to Contract with _____ for maintenance and operation of City services and functions including, but not limited to: water/sewer, fire protection, public safety, roads, and the maintenance of the dump site. _____ shall also do the bookkeeping for and administer any funds the City may have, such as Revenue Sharing, thereby consolidating the City and Tribal administrations into one for maximum efficiency and savings. The City will continue to budget and control expenditure of all Municipal funds.

This MOA does not dissolve the City, nor does this MOA transfer ownership and title of the City's assets to _____

2. Period Performance:

This MOA will be in effect upon execution of both parties and terminate on _____, 20__, unless otherwise terminated sooner by one or both parties and in the manner provided for in this agreement. A negotiation for continuation will be done prior to _____, 20__.

3. Roles:

A. ROLE OF THE CITY:

The City of _____ shall continue to function as a body under the MOA and perform the minimum requirements spelled out in the Alaska Statutes to retain the status of 2nd Class City, including:

- 1) Meet regularly in joint meetings with the Tribal Council;
- 2) Conduct annual elections;
- 2) Develop and pass a budget ordinance authorizing receipt and expenditure of funds under the control of the City, review monthly financial statements to ensure City funds are spent appropriately and amend the budget if there are significant and/or unexpected changes in City revenues or expenditures;
- 3) Apply for any funds the City may be eligible for;
- 4) Approve the selection of a City Coordinator/City Clerk combined part-time position who works under the direction of the City and performs all duties prescribed by law and the city's job description;
- 5) Serve in an advisory capacity on the provision of all basic services included in the MOA;
- 6) Further, the City shall continue to control the sale, disposal, and use of all City lands and property in accordance with the City's land ordinance;
- 7) Negotiate a Plan with _____ coordinate implementation of city and tribal ordinances.

B. ROLE OF _____ TRIBAL COUNCIL:

The _____ Tribal Council on behalf of the City shall administer City funds and provide City services.

4. Responsibilities

A. The City hereby contracts with _____ for the operation, maintenance, and use of all services the City performs and all property and equipment described in the attached schedule 'A'. These services shall include but are not limited to: water and sewer, public safety, roads, fire protection, and dump maintenance. All property and equipment described in schedule 'A' shall be referred to as "Premises" and defined in this agreement.

B. The City further contracts with _____ to provide bookkeeping services and administration of any funds identified in the City's budget. All City revenues and expenditures will be reported by _____ in accordance with the City's budget. The _____ accepts no liability or responsibility for disallowed costs (unauthorized use of restricted/grant funds) incurred prior to the date _____ assumed responsibility for administration of those funds. The City accepts full liability for those disallowed costs incurred prior to the date _____ assumed responsibility and will budget sufficient funds to satisfy any debts incurred as a result of disallowed costs the City has administered.

C. The City will prepare a financial report outlining the ending balances for the City's general fund checking account and any other checking accounts the City may have. _____ agrees to assist the CITY with this report by providing the services of _____'s accounting consultant, _____, at no charge.

D. Financial Status reports and any other required reporting will be provided to the City Council at the same time reports are submitted to _____ (at least monthly for financial reports), and to the State/Federal Government as required. Financial reports of City revenues and expenditures will reflect the categories the City Council has identified in the City's budget for the appropriate fiscal year.

E. General Fund services paid for from discretionary monies will be tracked using combined fund accounts for the City and Tribal. Each fund will show the City's contribution for that service as a City Income Account. _____ will not spend more money on the service than budgeted by the City.

F. _____ will not assume liability for any debts the City has incurred prior to this agreement. The City is responsible for repaying their debts. However, in the interest of ensuring an orderly transfer of services as well as vendor accounts, and at the discretion of _____, _____ will pay those debts, liabilities, and accounts payable from its own revenue sources that _____ deems responsible for and that have been identified in the appendix clarifying which debt this is, including any outstanding payroll taxes. _____ shall work to have all City

vendor accounts transferred to the _____. _____
and the City shall work together to resolve any outstanding liabilities the City has incurred.

G. The City shall select a Coordinator/Clerk combined part-time position.

H. THE CITY contracts with _____ to manage city lands and equipment identified in the attached schedule 'A' and used to provide services covered under this MOA.

I. _____ agrees to purchase general liability insurance to protect the Premises and the City/_____ from liability suits. To reduce the cost of liability insurance, _____ shall modify its Scope of Work in its federal contracts to include as many of the services as possible so that liability for those services is covered under the Federal Tort Claims Act.

J. _____ agrees to provide services previously operated by the City equally to tribal and non-tribal members.

K. One employer identification number will be used for the joint City-_____
Administration.

L. One single, organization-wide audit will be conducted for both the City and _____ when required with the City's funds broken out and identified as municipal programs.

5. Use:

_____ shall use the Premises in a lawful and proper manner and shall comply with all applicable laws and regulations related to the use or maintenance of the Premises.

6. Location:

The Premises is located at _____, Alaska and shall not be removed from _____, Alaska.

7. Contractor's Inspection:

_____ acknowledges that it has fully inspected the Premises and that conditions are listed in Schedule 'A' next to the item, and that _____ has accepted the Premises as is.

8. Alterations:

With City Council's approval, _____ is authorized to make any and all alterations, additions, or improvements to the Premises as necessary to ensure continued operations.

9. Repairs:

_____ shall keep the Premises in decent repair, condition, and working order and shall furnish all parts, mechanisms, and devices to keep the Premises in good working order.

10. Liens:

_____ shall keep the Premises free and clear of all levies, liens, and encumbrances, and shall pay all appropriate license fees, registration fees, assessments, charges, and other costs that may be now or hereafter imposed upon the use of the Premises.

11. Warranties:

The City makes no warranties, either expressed or implied, nor shall any warranties arise by operation of law, as to any matter, including without limitation the condition of the Premises, its merchantability, or its fitness for any particular purpose.

12. Indemnity:

_____ shall indemnify and defend the City against and hold the City harmless from any and all claims, actions, suits, proceedings, costs, expenses, damages, and liabilities including attorneys fees, arising out of, connected with, or resulting from the use, operation, maintenance, or repair of the Premises by _____ during the term of the MOA.

13. Assignment:

_____ shall not assign, transfer, or pledge this MOA contract, the Premises or any part thereof, or any interest therein without the prior written consent of the City.

14. Ownership:

The premises is and shall remain the property of the City. This MOA does not constitute ownership.

15. Severability:

If any provision of this MOA is held invalid, that provision shall be severed from the agreement without invalidating the entire agreement.

16. Notices:

Service of all notices under this agreement shall be sufficient if in writing and given personally or mailed by certified mail, return receipt requested, to the party involved at the address shown on the front page of this MOA. Any notice mailed to the party's address shall be deemed accepted when deposited in the United States mail clearly addressed and with postage prepaid.

17. Survival of Covenants:

Whenever the context permits, the _____ promises made under this MOA contract shall survive the delivery and return of the Premises hereunder.

18. Headings:

Paragraph headings contained herein shall not govern, limit, modify or affect the scope, meaning, or intent of the provisions of this MOA contract.

19. Definitions:

Premises: Premises is defined as any real and/or personal property and any interest in real or personal property in possession of the City of _____ at the time of execution of this agreement and made a part of this agreement and any subsequent changes or enhancements to any such real and/or personal property.

Organization: Organization as referred to in this MOA refers to the combined City and Tribal administrative entity.

20. Termination:

This agreement may be terminated by either party prior to the termination date specified in this MOA. 30 days written notice is required to be provided to the other party and any other interested party(ies). The notice must spell out the reasons for termination, provide an effective date for termination, and lay out a plan for returning administration and any relevant documentation to the City. Notice must be sent certified mail, return receipt requested.

21. Entire Agreement:

This MOA together with the attached schedule A and any other written instrument executed by the City and _____ and made a part of this MOA is the entire agreement. The agreement shall not be amended and/or changed, except by written agreement entered into and executed by both parties.

IN WITNESS WHEREOF, the parties hereby execute this MOA in accordance with applicable provisions of federal, state, and local law. This agreement is effective upon execution of both parties identified herein and terminates as provided herein.

Honorable Mayor, CITY of _____ Date

City Clerk, CITY of _____ Date City Seal

The President, _____ Tribal Council Date

Secretary, _____ Tribal Council Date

SCHEDULE A

SECTION 1

LIST OF THE PREMISES

SECTION 2

ORGANIZATION

Tribal-Municipal Organizational Chart under the Memorandum of the Agreement

SECTION 3

EMPLOYMENT PRACTICES

Under the MOA, all employees are essentially employees of the _____ Tribal Council, regardless of the funding source. In other words, all of the employees receive their checks from the _____ Tribal Council, and follow _____'s personnel policies. However, while the other employees receive orders under _____'s chain of command, the City Coordinator/Clerk takes direct orders from the City Council. Only the City Council can terminate this position. Despite the Coordinator/Clerk's independence, in practicality the City Coordinator/Clerk works directly with the Tribal Administrator on joint projects and the Tribal Administrator usually delegates work to him/her. Further, the Tribal Administrator approves sick leave, annual leave, travel requests, etc. for the City Coordinator/Clerk.

A. RECRUITMENT

The _____ Tribal Council provides equal employment opportunity to all applicants on the basis of demonstrated ability, experience and training. As positions become available within the organization, prior to outside recruitment, the Tribal Administrator shall determine the availability of qualified candidates from among existing staff.

B. ANNOUNCEMENT OF NEW POSITIONS

Notice of all job openings will be available for two weeks prior to open recruitment to staff who are already working within the organization, unless the skills required are so specialized that existing staff cannot meet the minimum qualifications. All job notices will, after the initial two-week internal recruitment period, be posted in at least three public places normally used for posting public notice for at least two weeks prior to hiring. All job notices will contain the job title, job class, department, job functions, and minimum qualifications.

C. EMPLOYEE SELECTION PROCESS

Selection of candidates for all positions and continued employment will comply with all state and federal laws regarding equal opportunity employment and affirmative action. The Tribal Administrator is responsible for preparing the position description.

Job-related duties and qualifications, as listed on the position description, will provide the basis for initial screening of applications. Initial and final screening for the minimum qualifications will be conducted by the Tribal Administrator. Applicants not meeting the minimum qualifications will be withdrawn from the pool.

Some positions will require skills for which a known level of competence must exist, for example, heavy equipment operators, heavy equipment mechanics, drillers, etc. Under these circumstances, the Tribal Administrator may request applicants to demonstrate these skills by completing an exercise involving a job-related work sample. It must be evident that such an exercise measures knowledge of skills required for the particular job. The results of an exercise must prove to be a valid prediction of job performance. All interviewed applicants must be given the same exercise.

The Tribal Administrator will be responsible for verification of employment information provided by the applicant, if the information is needed in making a candidate selection. The applicant will be advised that this information will be verified. Additional information should not be requested from prior employers unless the applicant agrees in writing, because it may violate the applicant's privacy. For temporary, seasonal, alternate, or construction jobs, the Tribal Administrator shall be responsible for interviewing and hiring persons.

For permanent positions jointly funded by the City and _____ the Tribal Administrator will designate a Council member from the Tribal Council and a City Council member to interview the person.

The individual hired shall be selected and confirmed by a majority vote of the City and the Tribal councils based on the evaluation of the council members and recommendations of the interviewing team.

All permanent employees hired are subject to _____'s termination policies. The only exception is the City Coordinator/Clerk who can only be terminated by the City Council.

After selection of the candidate the Tribal Administrator shall contact the candidate and officially hire him/her.

After the verbal offer has been made and the candidate has agreed to the essential terms of the offer (typically position, employee classification, monthly salary or rate, and starting date), a written offer will be prepared by either the _____ Tribal President or Tribal Administrator, and submitted to the candidate in person or by mail.

The verbal or written offer must never express or imply that employment is "permanent", "long term", of a specific duration, or words of similar meaning. An exception may be made where a temporary position of known duration is to be filled. Employment may be made contingent upon certain job-related factors, such as obtaining a specific state or federal license or security clearance when appropriate or desirable.

After examining the employee's documentation of identity and employment eligibility each document examined must be photocopied and the copy maintained in the employee's personnel file folder.

SECTION 4

OPERATING AS A JOINT-BODY UNDER THE MOA

All meetings, special or regular, will be held as joint meetings. The agenda will be broken up into City business and Tribal business. Agenda items that require the official approval of the City, such as final decisions on municipal grants, go under City business. Agenda items which are neither specific to the Tribal or City go under Joint business, such as joint resolutions and finance reports. Agenda items which require the specific approval of the Tribal Council will go under Tribal business.

The Mayor will chair City business and the President will chair Tribal Business. The Mayor and the President alternate every other meeting for chairing Joint business.

Only one set of minutes is kept for both the City and Tribe, with all motions recorded for the City and Tribe.